

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:12-cv-74-RJC**

JOSE FERNANDO AZUA,)
JOSE MORENO AZUA,)
)
Plaintiffs,)
)
v.)
)
ANNE M. TOMPKINS,)
DEWAYNE SPEARS, and)
UBALDO RIOS,)
)
Defendants.)
_____)

ORDER

THIS MATTER is before the Court on Defendants’ Motion to Stay all proceedings in this action until completion of the criminal charges against Plaintiffs in the related criminal case in this district, 3:11-cr-386. (Doc. No. 15).

Defendants assert that the motion to stay is based on the Supreme Court’s reasoning in Wallace v. Kato, 549 U.S. 384 (2007), in which the Court held that where there is a pending criminal charge against plaintiffs in a civil action such as this, the grounds for dismissal under Heck v. Humphrey, 512 U.S. 477 (1994), would not apply unless and until such plaintiffs are convicted in the related criminal case. Wallace, 549 U.S. at 393. The Court went on to state that, in cases such as this one, “it is within the power of the district court, and in accordance with common practice, to stay the civil action until the criminal case . . . is ended.” Id. at 393-94.

IT IS, THEREFORE, ORDERED that Defendants’ Motion to Stay, (Doc. No. 15), is **GRANTED**. Defendant Anne M. Tompkins (the United States) shall be responsible for notifying the Court upon completion of the criminal charges in the related action, 3:11-cr-386.

Signed: April 23, 2012

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
Chief United States District Judge

